

Religious Organizations and the Affordable Care Act



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December 3, 2014



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- A professional services firm with three distinct business lines
 - Wealth Advisory
 - Outsourcing
 - Audit, Tax, and Consulting
- 3,600 employees
- Offices coast to coast
- Nonprofit group serves 6,000 clients across the country



Speaker Introductions

- **Karen Gries**

Karen Gries is a Principal with CliftonLarsonAllen. She provides tax compliance and consulting services to exempt organizations. She has 25 years of public accounting experience focusing on serving the needs of nonprofit organizations.

- **Larry Adams**

Larry has worked in public accounting since 1985 providing audit, tax, and financial consulting services to nonprofit organizations. He has been involved in several nonprofit boards and has spoken at a number of seminars on various financial and accounting topics, including: healthcare reform, internal controls, and fraud.

Learning Objectives

- ACA requirements for religious organizations
- How large and small employers are defined under the ACA and the responsibilities of each
- What it means to be a "large employer" vs. "small employer" and the impact on each
- Compliance timelines and practical guidance on how to comply

What Happened?

- In March 2010, Congress passed and the President signed health reform in:
 - **The Patient Protection and Affordable Care Act**
 - **The Health Care and Education Affordability Reconciliation Act of 2010**
 - ◇ Increases **access** to health coverage
 - ◇ Aims to **reduce costs** via payment reductions and focus on wellness and prevention
 - ◇ Seeks to reward **“value-based”** care delivery
- Since passage, numerous additional laws have been passed amending portions of original laws, and rules/guidance issued



Impact of the Act:

- Cost: = \$940 billion/10 years
- Coverage = 32+ million by 2019

The ACA

- Is the law of the land today
- Applies to all businesses in the US, including religious organizations
- Requires almost all individuals to obtain health insurance coverage or pay a penalty
- Established health insurance exchanges
- Employers with 50+ FTE employees may have to pay a penalty if they don't offer full-time employees affordable, minimum level health insurance after 1/1/2015 (subject to transition rules)
- Implementation details continue to be outlined through the issuance of new regulations, guidance, and FAQ documents from IRS, HHS, DOL

Churches Fall Under the ACA

- Only certain limited provisions of the ACA are modified for Churches.
- Religious schools are not the same as churches
- Parochial schools that are a part of a church are defined as church
- Churches should not be aggregated with other churches or affiliations of churches for purposes of compliance.
- Certain requirements fall on Employers, Plans and Individuals

Reform Summary Timeline

- Large employers disclose health insurance benefits on W-2s
- Health insurers required to begin following administrative simplification regulations.
- Limits placed on flexible spending accounts.
- New 3.8% Medicare Tax for Unearned Income .

2013

- Medicare Earned Income Tax Increases to 2.35% for higher income earners.
- Employer tax deduction for Part D subsidies eliminated.
- Insurance Exchange open enrollment begins

- State and federal insurance exchanges operational.
- Individual penalties imposed for failure to obtain health insurance coverage.
- Insurance industry pays fees based on market share.
- Insurers prohibited from restricting coverage and imposing benefit limits.

2014

- Insurers must guarantee issue and renew plans
- Employers to provide Health Insurance Exchange notice to employees.
- Waiting period for employer-sponsored insurance not to exceed 90 calendar days.

- Employer “shared responsibility” penalties imposed. (2015)
- Large employers to begin auto-enrolling FT employees into health insurance plan.
- Small employers to begin reporting health benefits on W2s.(Pending further IRS guidance)

2015 - 2018

- Large employers may be able to offer Exchange plan as employer-sponsored coverage (2017)
- Excise tax imposed on “Cadillac” health plans (2018)

Summary of Benefits and Coverage (SBC) Notice to Employees

- Currently in effect
- Include with open enrollment materials
- Distribute to newly eligible employees, employees with special enrollment rights, and upon request
- A new Summary of Benefits and Coverage (SBC) distributed at least 60 days prior to any mid-year plan changes affecting SBC.

Who is responsible for providing this information?

Eligibility for Health Insurance Exchange Notice

Employers to notify employees upon effective date and/or date of hire:

- Information about the existence of state/federal exchange, services offered and how to contact
- Employee may be eligible for assistance to purchase insurance via the Exchange
- Employee loses eligibility for employer contribution to health benefits if purchases insurance via the Exchange

There are no religious exemptions but the requirement hinges on FSLA. You may or may not fall under FSLA, it is based on facts and circumstances.

For practical purposes: assume it applies to you.

Employers who are:

- Subject to Fair Standards Labor Act
- Institutions who care for the sick, the aged, mentally ill, or disabled who reside on the premises
- Schools for children with mental or physical disabilities or gifted
- Preschools, elementary and secondary schools, and institutions of higher education
- Governments agencies.

Defining Small and Large Employers

- *The definition of “large employer” varies depending upon the section of the law one is referring to:*

For Employer Penalties:

50 or more full-time employees plus full-time equivalents.

FT employees: avg. 30 or more hours of service per week

FTE (full-time equivalents) = Hours worked in a month by all PT employees divided by 120

Eligibility for Premium Tax Credits:

25 or fewer employees earning < an avg. of \$50,000

Eligibility for the SHOP:

- Fewer than 50 OR
- Fewer than 100

Employer who must auto-enroll: 200 + employees

Tax Credit for Small Employer Health Premiums

Eligible small employer:

	Full Credit	Upper Limit
# of FTEs	≤ 10	25
Avg. annual payroll per FTE	$\leq \$25,000$	\$50,000

- Employer contributes $\geq 50\%$ of employee premium
- *This will only benefit the smallest employers*

• Use Form 8941 to calculate credit: <http://www.irs.gov/pub/irs-pdf/f8941.pdf>

Credit amount is reported on line 44f of the [Form 990-T](#) (must be filed to claim credit)

Tax Credit for Small Employer Health Premiums

- Tax credit for % of employer-provided health insurance premiums (IRC Sec. 45R)

Tax Years	501(c) Credit
2010-2013	25%
2014-2015	35%
Offset	UBIT or Refund

- **Eligible insurance product to qualify for credit**
 - **In 2010 – 13 tax years:** Any health insurance purchased from a licensed insurer (*defined benefit*)
 - **In 2014 – 15 tax years:** Employer must purchase coverage via the Exchange. (*defined contribution*)

Small Employer Tax Credit

- **Prior Year Credit Can Still be Claimed:** Eligible small employers that forgot to claim the credit this year on their tax return, can still obtain the credit if they file an amended return.
- **Credit can be applied to other years:** Small employers who did not owe tax during the year, can carry the credit back or forward to other tax years.
- **Credit is Refundable:** If you owe no income tax to the IRS, the amount of the credit will be sent to you in the form of a refund check!

Sequestration:

As of March 1, 2013, the refundable portion of the credit was reduced by 8.7 percent. This reduction is in effect until Sept. 30, 2013 or intervening Congressional action, at which time the sequestration rate is subject to change.

Additional Health Plan Fees/Taxes

Patient-Centered Outcomes Research Institute (PCORI) Fee (2012)

- Effective for plan years ending on or after 10/1/2012
- **Requires health insurance and self-insured plans(employer) to pay a per participant fee**
- **Fee**
 - Year 1: \$1/participant
 - Year 2: \$2/participant
 - Due by 7/31/2013
 - 2014: Inflation adjusted rate
 - 9/30/2019: Phased out
 - IRS indicated it is tax deductible

Transitional Reinsurance Fee (2014)

- Third Party Administrators pay on behalf of the Plan
 - Remit annual contributions to support reinsurance payments to issuers
 - ◇ \$63 per covered employee and their dependents in 2014
 - ◇ Phases out: \$42 in 2015; \$26 in 2016
 - ◇ First quarterly payment was due 1/15/14

Filed on Form 720

Health Plan Fees/Taxes

Health Insurance Industry Tax (HIT) (2014)

- Fee assessed on fully-insured health plans in the individual and small group market
- Tax is a fixed dollar amount assessed based upon insurer's net premiums
 - Non-profits only pay the tax on 50% of net premiums
 - Plans receiving > 80% of revenues from public programs for the poor, elderly & disable are exempt from the tax

Cadillac Plan Tax (2018)

- 40% excise tax assessed on health insurer or plan administrator offering “high-cost” health coverage
 - “High cost” = annual premium
 - ◇ > \$10,200 single coverage
 - ◇ > \$27,500 family coverage
- Tax would be on premiums above the thresholds
- Goal is to generate revenue to help pay for coverage for the uninsured and to make the most expensive plans less attractive.

2014: Individual Mandate Penalties

- Penalties for failure to obtain coverage is the greater of:

	Per Person Amount	Household income**
2014	\$95	1.00%
2015	\$325	2.00%
2016	\$695	2.50%

***Household income over the tax filing threshold*

- Family penalty = max. 3x per person amount
- Dependent assessed penalty = 1/2 per person rate



Large Employer Penalties

2015: Potential Large Employer Penalties

Law does NOT require employers to offer health insurance

- **Large employers** subject to one of two “**shared responsibility**” penalties if any FT employee receives Exchange subsidies
 - Controlled Group Rules do not apply the Churches or Affiliations of Churches
 - Educational employees: Teachers and other educational employees will not be treated as part-time for the year simply because their school is closed or operating on a limited schedule during the summer. (US Treasury Department fact sheet for 2015)

Large employer = 50 or more full-time employee + FTEs

FT employee = avg. 30 or more hours of service per week

FT equivalents = Hours worked in a month by all PT employees divided by 120

For “minimum essential coverage”, see IRS Notice 2012-31 at:
<http://www.irs.gov/pub/irs-drop/n-12-31.pdf>

Employer “Shared Responsibility” Penalties

Penalty only assessed if:
a Full Time employee receives Exchange subsidies &
employer coverage not Affordable

No Insurance Coverage Penalty

Amount = \$2,000 x each full-time employee
(**after first 30 employees**)

Unaffordable Employer Coverage Penalty If
employer fails to offer coverage that is:

1. **Minimum essential coverage** and minimum 60% actuarial value **offered to employees and their children under age 26.**
2. **Affordable** = Employee premium cost for **single coverage** < 9.5% of household income (employee compensation).

Amount = \$3,000 x # of full-time employees who receive exchange subsidies

“Affordable” = the employee premium contribution for single coverage is **less than** 9.5% of their MAGI household income, or one of three employer safe harbor options exist. (e.g., W-2 wages)

Maximum penalty = no insurance penalty

Inflationary adjustments to penalties begin in 2015

Employer pays **no penalty for Medicaid** eligible employees

Employer Penalty Implementation Timeline

2015

- All applicable large employers must offer **coverage to at least 70% of its full-time employees** to avoid \$2,000 penalty; \$3,000 penalty may still apply for uncovered
- For employers with 100 or more employees, \$2000 penalty applies **after the first 80 full-time employees** if no insurance offered.
- No penalties for employers with 50-99 employees, who meet certain criteria
- No penalties between January and Plan Year start for certain non-calendar year plans.

2016

- All employers with 50 or more employees must offer coverage to at least 95% of full-time employees to avoid penalties
- \$2000 no insurance penalty is assessed after first 30 FT employees (no longer 80)
- SHOP open to all employers with fewer than 100 employees
- Information Return for 2015 to be filed with IRS

2017

- SHOP Coverage open to all small and large employers

Plan Year 2015 Transition Relief:

No Penalties for Certain Employers With 50 – 99 Employees

Criteria employers must meet:

- **Has 50 – 99 FT employees plus FTEs during 2014.**
- **Made no reduction*** in its workforce hours or size between 2/9/2014 and 12/31/14 to meet the first criteria
- **Previously-offered health coverage is maintained** between 2/9/2014 and the end of Plan Year 2015:
 - Same employees continue to receive employer contribution that is:
 - ◇ At least 95% of the dollar amount as of 2/9/2014; or
 - ◇ The same or higher percentage of the cost as 2/9/2014
 - Any plan changes don't result in a loss of minimum value
 - Eligibility for coverage is not narrowed to cover fewer employees.
- **Certify their eligibility for transition relief**
(as part of required information return)

Questions to Ask?

- Do you think you are a large employer?
—————→
- Does your payroll software track hours for everyone that is not full time salary?
- Can you do the calculation for affordability for the lowest paid “Full Time” employee

Controlled Group Rules

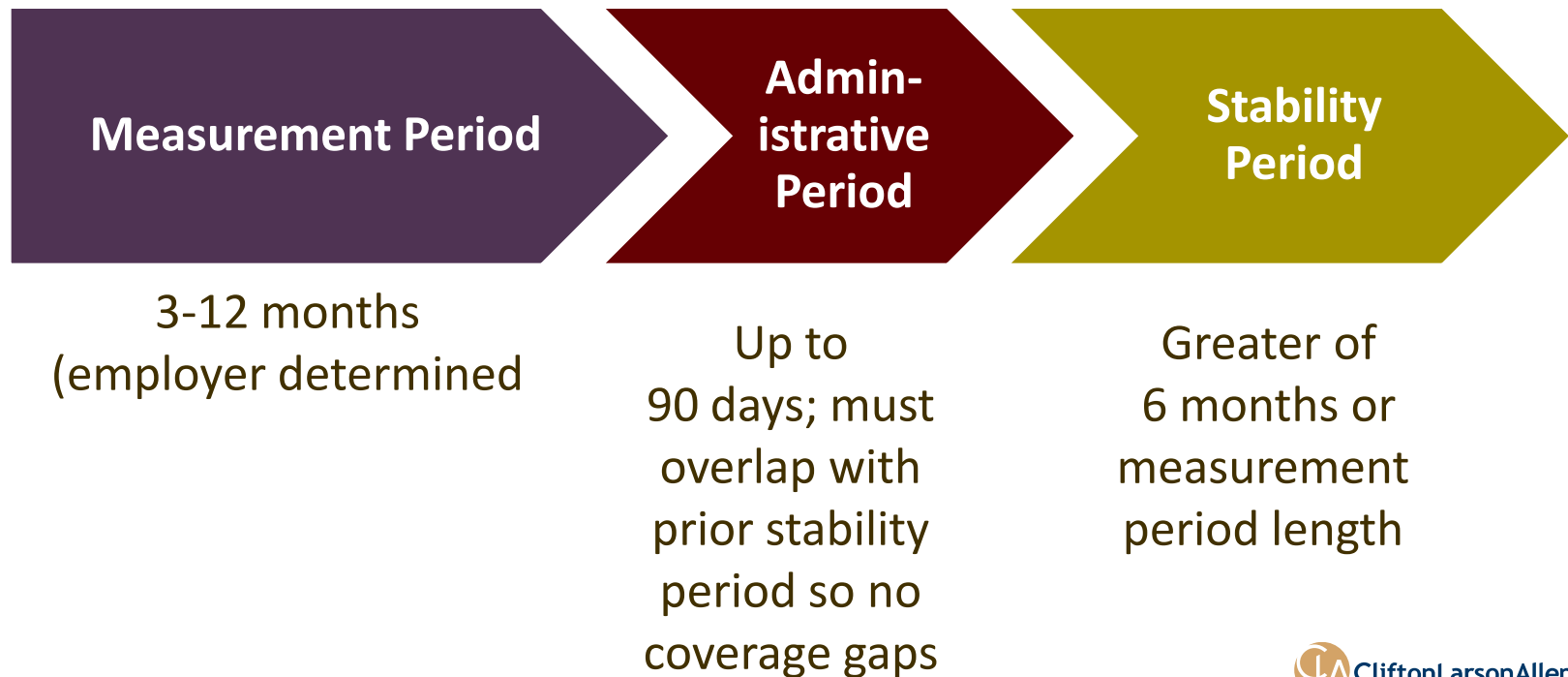
- Controlled/Affiliated group rules
 - IRS has not determined how rules should apply to churches & a convention or association of churches
 - ◇ Allow employers to use a reasonable, good faith interpretation of Section 414(b), (c), (m), or (o) rules in determining applicable large employer status
 - Current language is that controlled group would not apply to Churches

Employers still need to:

- **Exchange Notice:** Supply all employees (part-time and full-time) with notice about the availability of the Health Insurance Exchanges by October 1, 2013
- **Benefit Summaries:** Provide Summary of Benefits and Coverage when making certain changes to plans offered
- **Enrollment waiting period:** Ensure employee waiting period for enrollment in employer-sponsored insurance does not exceed 90 calendar days starting in 2014

Look-Back Measurement Method to Define Full-Time Employee

- IRS Notice 2012-58 and Dec. 2012 IRS/HHS proposed regulations explain a method employers may use to determine full-time status for ongoing employees, new employees, and variable hour and seasonal workers.



Methods for Determining Full-Time Status of Employees

Monthly Measurement

Total each employees hours worked each month and compare to 130 hours.

- If at or over = full-time
- If below = not full time
- Optional “weekly rule”
- **Pros:** Calculates actual # of full-time employees in real-time
- **Cons:** Administration of monthly benefit enrollment; employees on/off plan monthly

Look-Back Measurement

Employer use prior hours of service over employer-selected period as a determinant future full-time status.

- **Pros:** Predictability; Longer measurement period can reduce # to which benefits must be offered
- **Cons:** May not accurately reflect number of full-time employees

Look-Back Measurement Method

- This method can be used for ongoing employees, and for **new** variable hour or seasonal employees
- An “ongoing” employee is someone employed for at least one standard measurement period
- Method **cannot** be used for new employees who are not variable hour or seasonal
 - If hired to be full-time, must be treated as full-time at the start.

Key Terms for Look-Back Measurement Method

- **Initial measurement period (IMP):** A period of 3-12 consecutive months as selected by the employer used under the look-back measurement method
 - For 2015, all current employees IMP will start on same date
 - For new hires, IMP will begin on their first day of employment or up to an d including the first day of the first calendar month following their start date
- **Standard measurement period (SMP):** Same definition as IMP but applies to ongoing employees

Key Terms for Look-Back Measurement Method

- **Administrative period:** Optional period that begins immediately following the end of SMP and ends immediately before the start of the stability period.
 - Maximum of 90 days, which includes gaps between start date and IMP start
 - Must overlap with a prior stability period so no gap in coverage.
 - May differ by category of employee.
- **Stability period:** The period that immediately follows and is associated with the standard or initial measurement period.
 - Duration is the greater of 6 months or the length of the measurement period
 - Must be same length for ongoing as new variable hour, new seasonal and new part time employees.

Identifying Full-Time Employees

- Employee engaged in average of 30 “hours of service” per week or 130 hours in a month.
 - Uses common law definition of employee
 - ◇ Does not include pastors
 - Hours of service = hours worked and hours paid but for which no work was performed (e.g., PTO, FMLA, Deployment leaves, disability, etc.)
 - Salaried workers use actual hours, or 8 hours/day or 40 hours per week standard.
 - Special rules for employees of educational institutions
 - Seasonal workers: If 120 days or fewer; or 4 calendar months of work, then excluded from calculation of large employer

2015 Transition Relief 2015: *Shortened Measurement and Stability Periods*

- **Transition Measurement Period**
 - Between 6 – 12 consecutive months
 - Starts no later than July 1, 2014
 - Ends no earlier than 90 days before the start of 2015 plan year
- **Example: Calendar plan year (January 1)**
 - ◇ Measurement period: April 15 – October 14, 2014
 - ◇ Administrative period: October 15 – December 31, 2014
- **Example: Non-calendar plan year (July 1)**
 - ◇ Measurement: June 15, 2014 – April 14, 2014
 - ◇ Administrative Period: April 15 – June 30, 2015

Types of Employees

- **Full-time:** one who has an average of 30 hours of service per week or 130 hours per month.
- **On-going:** an employee who has been employed by the employer for at least one complete standard measurement period.
- **New employee:** An employee that has not yet been employed for one complete standard measurement period.
 - Expected to work full time: Up to 90-day waiting period permitted if full-time. No penalty during waiting period
- **Variable hour:** An employee for which it is unclear whether they will average of 30 hours of service/week for an entire measurement period.
 - Employer has up to 13 months to determine full-time status and offer coverage before penalty

Measurement/Stability Periods Can Vary

- **May use different Measurement/Stability periods by classification of employee, including:**
 1. Collectively bargained employees and noncollectively bargained employees;
 2. Salaried employees and hourly employees;
 3. Employees of different entities; and
 4. Employees located in different States.
- **For new variable or seasonal employees:**
 - Measurement + administrative period cannot be > 13 months after employee's start date.
 - Stability period cannot exceed the remainder of the first SMP.
 - Stability period cannot be more than 1 month longer than IMP

Picking a Measurement period:

When must an employee be covered?

Measurement: Employer can choose any duration between 3 and 12 months to determine full-time status of employees for whom it is not certain whether they will be full-time

Conflicting stability period status: Rules appear to suggest where initial and standard stability periods overlap and conflict, defer stability period where individual is considered full-time and offer coverage.

Measurement								
Administrative								
Stability period - where must offer coverage								
Stability period - where no coverage required								

3 month measurement, 90-day Administrative period

For ongoing employee that doesn't average 30 hours during a measurement period...

3 month Example, 90 day Admin period

	2015												2016												2017			
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A
IMP	125	150	142	139	Coverage required																							
SMP				125	153	130	115	150	100	122	No coverage																	
							115	140	125	127	No coverage																	
										115	150	100	122	No coverage														
													125	153	130	136	Coverage required											
																115	140	125	125	150	142	139	Coverage required					





- Final rule clarified application of situations where stability periods are longer than measurement periods:
 - Next measurement period must begin at the latest date that does not result in a gap between stability periods.
 - Stability periods must equal measurement period when on-going employee does not meet the 30 hours of service per week during a prior measurement period

Same Employee Data: 6 & 12 Month Measurement Periods

	2015												2016												2017			
6 month	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	
	125	150	142	115	150	100	130			Coverage Required																		
							125	153	130	115	140	125	131		Coverage required													

	2015												2016												2017		
12 month	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
	125	150	142	115	150	100	125	153	130	115	140	125	131	Coverage required													

In both cases, covered for 12 months but in 12-month example, coverage starts in February 2016 instead of October 2015.

	Measurement																										
	Administrative																										
	Stability period - where must offer coverage																										
	Stability period - where no coverage required																										

Seasonal Worker Example: 8 Month Measurement Period

2015								2016								2017										
J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
200	200	200	0	0	0	0	200	100	No coverage required																	
								200	200	200	200	200	200	200	0	175	Coverage required									

Employer only required to offer employee coverage for 8 months out of a possible 27 months.

Who Counts As Your Employee?

YES

- **Educational employees:** If full-time for school year, then treated as full-time for calendar year.
- **Adjunct faculty:** Until further guidance, employers are to establish a reasonable method for crediting hours of service that is consistent with the ACA.
 - **IRS optional method** = 2.25 hours of service per week for each hour of teaching or classroom time.
- **Paid Student Interns or Externs**
- **Seasonal employees:** Counted in determining liability for employer penalties.

NO

- **Bona Fide Volunteers:** Applies to volunteers of government or tax-exempt entities. Allowed to compensate for reasonable expenses or reasonable benefits.
- **Seasonal worker:** Can exclude from Large Employer determination if they work **120 days or less** in preceding calendar years
- **Student work-study programs:** Only for service performed by students under federal or state-sponsored work-study programs
- **Home care workers:** Where service recipient is the common law employer of the worker.

Seasonal Employee vs. Worker

- **Seasonal employee:** an employee who is hired into a position for which the customary annual employment is **six months or less**.
 - No reference to consecutive months
- **Seasonal worker:** a worker who performs labor or services on a seasonal basis as defined by the Secretary of Labor and retail workers hired exclusively for the holidays. Employers may apply a reasonable, good faith interpretation of this term.
 - **Exception for Large Employer Determination:** Can exclude from Large Employer calculations if work **120 days or less** in preceding calendar years and this is cause for employer to exceed 50 .

Educational Organizations Rules

- **Adjunct Professors:** Until further guidance, employers are to establish a reasonable method for crediting hours of service that is consistent with the ACA.
 - **IRS optional method** = 2.25 hours of service per week for each hour of teaching or classroom time.
- **Employment Break Rule:** Hours calculation for school year vs. calendar year
 - Treat as *continuing employee* (not rehired) unless no hours of service for 26 weeks or more
 - **Optional rehire status** if no hours for at least four consecutive weeks AND this period of no hours exceeds the employee's immediately preceding period of employment.

Rehires vs. Continuing Employees

- **New employee status** = no hours of service for > 13 weeks
 - Except for educational organizations employees where the standard remains 26 weeks.
 - Applies to both monthly and look-back measurement methods.
- **Continuing Employee Status** = no hours for < 13 weeks
 - Continue previous measurement/stability periods when return to work
 - Health coverage continues first day of work if considered FT at time of absence.
 - If 12 month measurement period used by employer, employee may not meet the threshold for full-time status due to 0 hours accrued during absence

Employer “Shared Responsibility” Penalties

Penalty only assessed if a FT employee receives Exchange subsidies.
Employees ineligible for subsidies if employer coverage affordable

No Insurance Coverage Penalty

- Also applies if coverage not offered to **at least 70% (2016 and beyond must be 95%)** of FT employees and their dependent children under age 26.
 - **Plan Year 2015 Amount = \$2000 x each full-time employee, after first 80 employees for Plan Year 2015**
 - **Plan Year 2016 and beyond Amount = \$2000 x each full-time employee, after first 30 for subsequent years**

2015 Transition Relief: Penalties

- **Offer coverage to 70% of FT employees for Plan Year 2015:** If meet or exceed, there is no \$2,000 penalty assessed for all of Plan Year 2015 but \$3,000 penalty still can be assessed under these circumstances.
 - Can only count a FT employee as offered coverage, if their dependent children under age 26 were offered coverage.
 - Dependent transition relief applies
- **Dependent coverage expansion:** For those not currently offering any, some or no MEC coverage to dependents in 2013 or 2014, but who take steps to add in 2014 or 2015 (or both), no penalties will be assessed for failure to offer dependent coverage but only for those not previously covered.

Three Employer Affordability Safe Harbors

- **W-2 Safe Harbor:** Looking back at Box 1 wages in comparison to premium cost for self-only coverage
- **FPL:** For 2014, employee cost for self-only coverage can't exceed \$92.38/month.
- **Rate of Pay:** Employee's cost for self-only coverage cannot exceed 130 hours x Employee's Pay Rate x 9.5%

Three Employer Affordability Safe Harbors:

W-2 Safe Harbor *IRS Notice 2012-58*

Form W-2 Safe Harbor: If employee's premium cost for self-only coverage is less than 9.5% of their W-2 wages for the employer, the health insurance is considered affordable AND

- The employer will not pay a penalty for that employee
- The employee may still be eligible for premium tax credits in the Exchange based upon Modified Adjusted Gross Income of Household.
- Employer is not subject to penalty if employee receives tax credit but later employer-sponsored insurance is determined to be affordable.
- **Affordability for related individuals:** Employers don't need to make coverage affordable for dependents (e.g. family coverage, Employee+1)

2016: Information Returns to be Submitted

Large Employers required to annually submit an:

1. Information return to the IRS by either **March 1, 2016 (typically, Feb. 28) or March 31, if filing electronically**
2. **Employee statements on or by January 31 (Feb. 1, 2016)**
 - Can be provided electronically like W-2s

Forms: 1094-C (transmittal) and 1095-C (employee statement)

- Applies to employers with 50 or more FT + FTE employees
- No filing required if employer has no full-time employees



**Sec. 6056
Reporting**

Sec. 6056: Employer Information Reporting (cont.)

- There is both a general and alternate reporting method
- Electronic return filing
 - Reporting to IRS
 - Electronic filing required if submitting 250 or more returns.
 - Optional electronic filing for employers with fewer returns.
 - **Electronic furnishing of employee statement** is permitted if notice, consent, and hardware and software requirements modeled on existing rules for Form W-2 are met.
 - Requires employee consent to furnish electronically
 - May include these statements with other statements (e.g., W-2)

Sec. 6056: Employer Information Return Reporting

- If a large employer is a member of an aggregated group, each individual employer within the group is responsible for its own reporting for its full-time employees
- Information return is basis for IRS to calculate the an applicable employer penalties.
 - How does this work with look-back measurement period?

IRS Information Return: General Reporting

• Required elements

- Employer information and main contact
- Certification that minimum essential coverage was offered to FT employees by calendar month
- # of FT employees for each calendar month of calendar year
- By employee, months that coverage was available
- Employee share of cost for lowest cost plan
- Employee information and months covered by the plan

• Not required

- Waiting period length
- Employer's share of premium cost
- Premium for lowest cost plan by coverage type (e.g, employee only, family)
- Months that employee's dependents were covered by the plan

General Reporting Method

- **Must file information returns using EIN**
- **Purpose of reporting is:**
 - 1) Reconciling eligibility for premium tax credits;
 - 2) determining employer penalty liability.
- **Information to be reported for each employee include:**
 - Whether minimum value coverage was offered and to whom
 - The total number of employees in each calendar month
 - Whether an employee's effective date of coverage was affected by a permissible waiting period, by calendar month

Employee Statement

- Requires separate statement to be issued for each employee similar to W-2s
 - Must include: Employer name, address and EIN
- Single combine form can be used to report Sec. 6055 (employer reporting) and 6056 (minimum essential coverage issuer reporting) information
 - Substitute form that includes the same information is permissible
- Must be furnished to employee on or before January 31 of the year immediately following year for information furnished
 - For 2015, deadline is February 1, 2016

Form **1094-C**

Department of the Treasury
Internal Revenue Service

Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

► Information about Form 1094-C and its separate instructions is at www.irs.gov/1094c.

CORRECTED

OMB No. XXXX-XXXX
120115

2014

Part I Applicable Large Employer Member (ALE Member)

1 Name of ALE Member (Employer)		2 Employer identification number (EIN)	
3 Street address (including room or suite no.)			
4 City or town	5 State or province	6 Country and ZIP or foreign postal code	
7 Name of person to contact		8 Contact telephone number	
9 Name of Designated Government Entity (only if applicable)		10 Employer identification number (EIN)	
11 Street address (including room or suite no.)			
12 City or town	13 State or province	14 Country and ZIP or foreign postal code	
15 Name of person to contact		16 Contact telephone number	

For Official Use Only



17 Reserved

18 Total number of Forms 1095-C submitted with this transmittal

Part II ALE Member Information

19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions

20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member

21 Is ALE Member a member of an Aggregated ALE Group? Yes No
If "No," do not complete Part IV.

22 Certifications of Eligibility (select all that apply):

A. Qualifying Offer Method B. Qualifying Offer Method Transition Relief C. Section 4980H Transition Relief D. 98% Offer Method

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature _____ Title _____ Date _____
Title

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 61571A

Form **1094-C** (2014)

DRAFT AS OF
July 24, 2014
DO NOT FILE

Employer-Provided Health Insurance Offer and Coverage

Information about Form 1095-C and its separate instructions is at www.irs.gov/1095c.

VOID
 CORRECTED

Part I Employee						Applicable Large Employer Member (Employer)						
1 Name of employee		2 Social security number (SSN)		7 Name of employer			8 Employer identification number (EIN)					
3 Street address (including apartment no.)						9 Street address (including room or suite no.)			10 Contact telephone number			
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code		

Part II Employee Offer and Coverage	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
	14 Offer of Coverage (enter required code)												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)					April, Dollar								

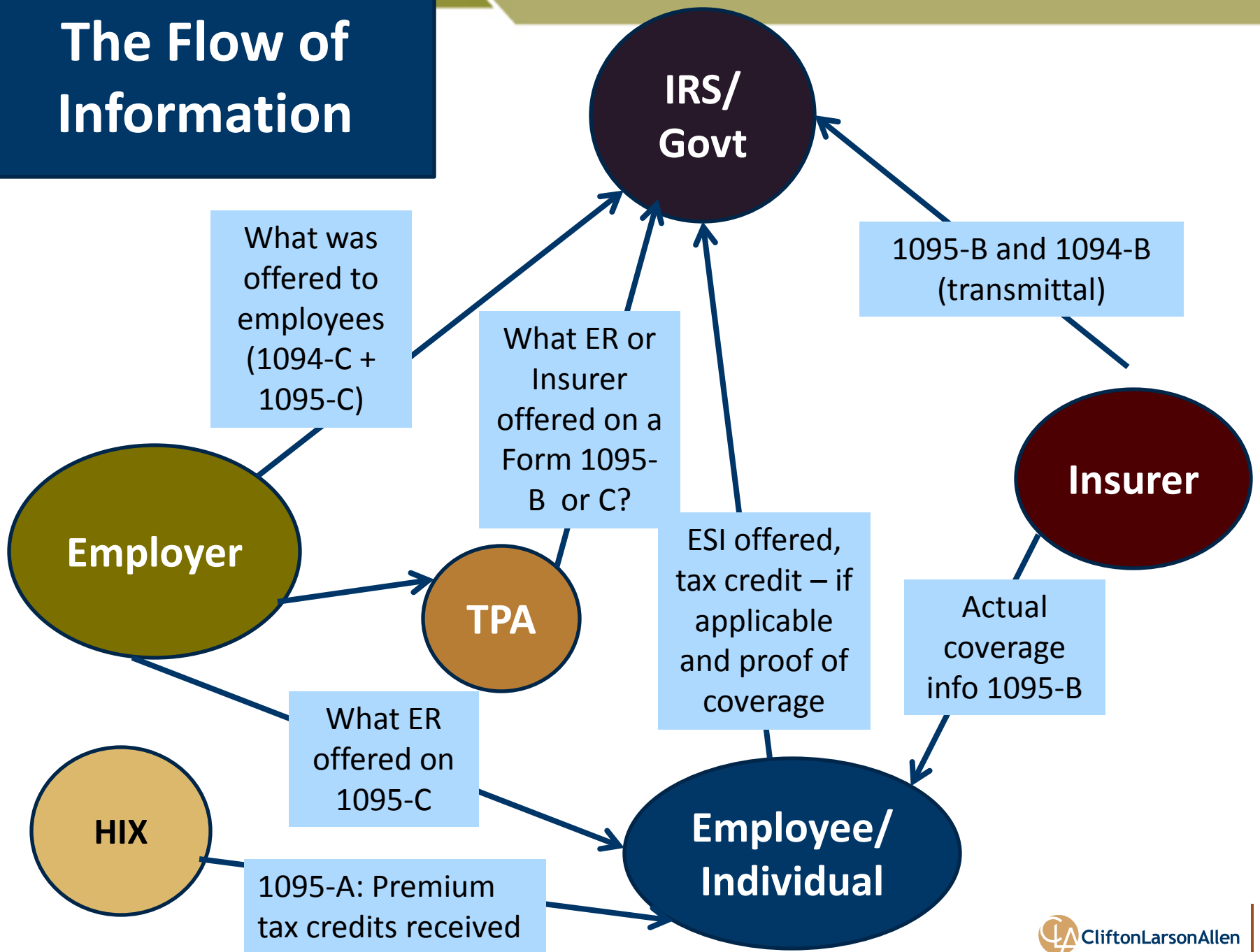
Part III Covered Individuals																
If Employer provided self-insured coverage, check the box and enter the information for each covered individual. <input type="checkbox"/>																
(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 months	(e) Months of Coverage												
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Self-insured only

Alternative Employer Reporting Methods

- May use combinations of alternative reporting methods for different employees.
- Each large employer liable for filing its own Sec. 6056 return when part of an aggregated group.
- Employers may use third parties to facilitate the filing of the reports but remain liable for failure to report.
- **Penalties of \$100 /return, up to maximum of \$1.5 million for:**
 - Failure to file (Sec. 6721) or
 - Failure to furnish correct payee statement (Sec. 6722)

The Flow of Information



ACA Penalties Can Be Substantial!

- ACA “market reforms” affect employer plans
 - Examples: No \$ limits on certain benefits; preventive services at no cost
 - Penalty for violating: \$100/day/employee!
- Employer plans may violate mkt. reforms [Notice 2013-54]
 - Medical reimbursement plans/HRAs per Sec. 105
 - Employer premium pmts. of employee insurance
 - Sec. 125 plans that fund employee health costs
- Applies to all employers

Recent Guidance from the Dept. of Labor

- 11.6.14 - FAQ's about ACA Implementation (Part XXII!)
 - Health Reimbursement Accounts (HRA's) – allows for reimbursements up to a certain amount
 - Not a violation of “market reforms” if combined with a group plan
 - Cannot be integrated with individual market policies
- Cannot reimburse the purchase of an individual policy (doesn't matter if it is treated as taxable)
- Employers cannot offer the option of health plan or cash
- Cannot utilize 3rd party vendors to set up a Code Section 105 reimbursement plan that works with brokers to help employees select an individual policy and access premium tax credits

Exceptions to ACA Market Reforms

- One employee plans
 - Caution: Nondiscrimination rules apply to Sec. 105 plans and will apply to insured plans in future
 - Example 1
- Ancillary benefit plans
 - Accident-only coverage, dental, vision, LT care
- Integrated Sec. 105 plans with full ACA coverage
- Retiree-only medical reimbursement plans

Where to Focus

- **Determine and document full-time employees and equivalents**
 - What size employer are you? When do penalties kick in?
- **Confirm your coverage is “affordable”**
- **Develop processes and procedures for tracking/monitoring**
- **Keep current on reporting requirements**
- **Identify point person responsible for understanding the impact of ACA on your organization**

Questions?



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